

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition:** 68-021-16-1-3-00119-17  
**Petitioner:** Larry D. Rittenhouse  
**Respondent:** Randolph County Assessor  
**Parcel:** 68-09-20-153-040.000-021  
**Assessment Year:** 2016

The Indiana Board of Tax Review (Board) issues this determination in the above matter, and finds and concludes as follows:

**Procedural History**

1. The Petitioner initiated his 2016 appeal with the Randolph County Assessor on July 26, 2016.
2. On December 15, 2016, the Randolph County Property Tax Assessment Board of Appeals (PTABOA) issued its determination denying the Petitioner any relief.
3. The Petitioner timely filed a Petition for Review of Assessment (Form 131) with the Board on January 25, 2017.<sup>1</sup>
4. The Board issued a notice of hearing on April 27, 2017.
5. Administrative Law Judge (ALJ) Patti Kindler held the Board's administrative hearing on June 2, 2017. She did not inspect the property.
6. Larry Rittenhouse appeared *pro se*. County Government Representative Charles Ward appeared for the Respondent. Linda Rittenhouse was a witness for the Petitioner. County Assessor Beverly Fields and Deputy Assessor George Caster were witnesses for the Respondent. All of them were sworn.

**Facts**

7. The commercial property under appeal, including a vacant building, is located at 212 West North Street in Winchester.
8. The PTABOA determined a total assessment of \$54,100 (land \$6,700 and improvements \$47,400).

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<sup>1</sup> The Petitioner did not elect the Board's small claims procedures, nor did he elect to opt-out of small claims. The total assessment of the subject property is below \$1,000,000 and the Board placed this appeal on the small claims docket without objection from either party. See 52 IAC 3-1-2.

9. On his Form 131, the Petitioner requested a total assessment of \$15,000 (land \$5,000 and improvements \$10,000).

### **Record**

10. The official record for this matter is made up of the following:

- a) Form 131 with attachments,
- b) A digital recording of the hearing,
- c) Exhibits:

Petitioner Exhibit 1:	Commercial Real Estate Sales Contract signed June 7, 2016,
Petitioner Exhibit 2:	Sales disclosure form,
Petitioner Exhibit 3:	Special Message to Property Owner (Form TS-1A) dated April 12, 2017,
Petitioner Exhibit 4:	Form 131 with attachments,
Petitioner Exhibit 5:	Thirteen photographs of the subject property.

Respondent Exhibit 2:	Subject property record card. <sup>2</sup>
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Board Exhibit A:	Form 131 with attachments,
Board Exhibit B:	Notice of hearing dated April 27, 2017,
Board Exhibit C:	Hearing sign-in sheet,
Board Exhibit D:	Notice of County Assessor Representation by Charles Ward.

- d) These Findings and Conclusions.

### **Contentions**

11. Summary of the Petitioner's case:

- a) The subject property's assessment is too high. The Petitioner purchased the property on June 7, 2016, for \$15,000 and ultimately was responsible for the taxes based on the 2016 assessment. The purchase also included "some screen printing equipment." The building was vacant prior to the Petitioner taking possession. Upon taking possession, the Petitioner determined the "roof is shot and needs work" and water leaks damaged the rafters. *Larry Rittenhouse argument; Pet'r Ex. 1, 2, 3, 4, 5.*
- b) Prior to the Petitioner purchasing the property, the former owner put a sign in the window advertising the property for sale in the middle March of 2016. The purchase transaction took "some time" due to financing. The property "could not have lost that

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<sup>2</sup> The Respondent did not introduce Respondent's Exhibit 1.

much value to go from \$54,100 on January 1, 2016, to purchasing it in June for \$15,000.” *Larry Rittenhouse argument; Pet’r Ex. 1, 2.*

12. Summary of the Respondent’s case:

- a) The subject property’s assessment is fair and accurate. Here, the purchase price of the subject property does not reflect the property’s market value-in-use. *Ward argument (referencing Pet’r Ex. 1, 2).*
- b) First, the property was never listed with a “listing service” and was not advertised in “the newspaper in the real estate section.” Because the property was vacant at the time of purchase, it “strongly indicates some sort of undue influence on the motivation of the seller.” Additionally, the sale resulted in a change in use of the property. Finally, the purchase price included personal property that was not accounted for on the sales disclosure. *Ward argument (referencing Pet’r Ex. 1, 2).*
- c) The Petitioner’s arguments “were valid for the 2017 assessment year (and) have been addressed for 2017 and going forward.” *Ward argument.*

**Burden of Proof**

- 13. Generally, the taxpayer has the burden to prove that an assessment is incorrect and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Ass’r*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm’rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998). The burden-shifting statute as amended by P.L. 97-2014 creates two exceptions to that rule.
- 14. First, Ind. Code § 6-1.1-15-17.2 “applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax year.” Ind. Code § 6-1.1-15-17.2(a). “Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court.” Ind. Code § 6-1.1-15-17.2(b).
- 15. Second, Ind. Code § 6-1.1-15-17.2(d) “applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under IC 6-1.1-15.” Under those circumstances, “if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.” Ind. Code § 6-1.1-15-17.2(d). This change was effective March 25, 2014, and has application to all appeals pending before the Board.

16. Here, the parties agree that the assessed value of the subject property did not increase by more than 5% from 2015 to 2016. In fact, the assessment only increased from \$52,500 in 2015 to \$54,100 in 2016, an increase of 3.05%. Further, the Petitioner failed to offer any argument that the burden should shift to the Respondent. Accordingly, the burden shifting provisions of assessment did not increase by more than 5%, the Petitioner had the burden of § 6-1.1-15-17.2 do not apply and the burden remains with the Petitioner.

### Analysis

17. The Petitioner failed to make a prima facie case for reducing the assessment.
- a) Real property is assessed based on its market value-in-use. Ind. Code § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. Assessing officials primarily use the cost approach, but other evidence is permitted to prove an accurate valuation. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.
  - b) Regardless of the method used, a party must explain how the evidence relates to the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For a 2016 assessment, the valuation date was January 1, 2016. *See* Ind. Code § 6-1.1-2-1.5.
  - c) The Petitioner's primary argument is that the subject property's assessment is excessive because the property is in poor condition and repairs are needed. In an effort to prove the poor condition, the Petitioner presented several photographs.
  - d) While the Petitioner's argument may have merit, it is insufficient to establish that the current assessment is incorrect. Photographs, by themselves, do not show that the assessment is inaccurate or prove a more accurate value for the property. The Petitioner needed to offer market-based evidence indicating the property's market value-in-use.
  - e) To that end, the Petitioner did offer evidence that he purchased the property on June 7, 2016, for \$15,000. He also testified the purchase price included an undisclosed amount of personal property. Additionally, he testified that the building was vacant and the previous owner put a sign in the window advertising it for sale.
  - f) Often, the purchase price of a property is the best evidence of the property's value. *See Hubler Realty Co. v. Hendricks Co. Ass'r*, 938 N.E.2d 311, 315 (Ind. Tax Ct. 2010) (the court upheld the Board's determination that the weight of the evidence supported the property's purchase price over its appraised value). However, the

purchase must meet the conditions for a market sale. As explained in the Manual, market value is:

[T]he most probable price, as of a specified date, in cash, or terms equivalent to cash, or in other precisely revealed terms, for which the specified property right should sell *after reasonable exposure in a competitive market* under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and *assuming neither is under undue duress*.

MANUAL at 5-6 (emphasis added).

- g) There is insufficient evidence to conclude that the Petitioner's purchase price is indicative of the market value-in-use. Specifically, the Petitioner failed to offer sufficient evidence that the circumstances surrounding this transaction make it a reliable indication of market value-in-use.
- h) Consequently, the Petitioner failed to make a prima facie case that the 2016 assessment is incorrect. Where a Petitioner has not supported its claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-22 (Ind. Tax Ct. 2003).

### **Conclusion**

18. The Board finds for the Respondent.

### **Final Determination**

In accordance with these findings and conclusions, the 2016 assessment will not be changed.

ISSUED: August 30, 2017

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

**- APPEAL RIGHTS -**

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days of the date of this notice.

The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.